

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO. 0931-01
BILL NO. HB 444
SUBJECT: CRIMINAL ACTIVITY FORFEITURE ACT.
TYPE: ORIGINAL
DATE: JANUARY 29, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
SCHOOL BUILDING REVOLVING FUND	UNKNOWN	UNKNOWN	UNKNOWN
TOTAL ESTIMATED NET EFFECT ON <u>ALL</u> STATE FUNDS	UNKNOWN	UNKNOWN	UNKNOWN

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
DRUG FORFEITURE FUND	(UNKNOWN)	(UNKNOWN)	(UNKNOWN)

TOTAL ESTIMATED NET EFFECT ON <u>ALL</u> FEDERAL FUNDS	(UNKNOWN)	(UNKNOWN)	(UNKNOWN)
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ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
LOCAL GOVERNMENT	(UNKNOWN)	(UNKNOWN)	(UNKNOWN)

NUMBERS WITHIN PARENTHESES: () INDICATE COSTS OR LOSSES
THIS FISCAL NOTE CONTAINS 5 PAGES.

FISCAL ANALYSIS

ASSUMPTION

OFFICIALS FROM THE OFFICE OF PROSECUTION SERVICES, OFFICE OF THE STATE COURTS ADMINISTRATOR AND THE OFFICE OF THE STATE PUBLIC DEFENDER EACH ASSUME THE PROPOSED LEGISLATION WOULD HAVE NO FISCAL IMPACT ON THEIR RESPECTIVE AGENCIES.

IN RESPONSE TO SIMILAR LEGISLATION FROM THIS YEAR, OFFICIALS FROM THE DEPARTMENT OF PUBLIC SAFETY - DIVISIONS OF FIRE SAFETY, LIQUOR CONTROL, CAPITOL POLICE AND THE DIRECTOR S OFFICE AS WELL AS THE OFFICE OF THE ATTORNEY GENERAL ASSUMED THE PROPOSED LEGISLATION WOULD HAVE NO FISCAL IMPACT ON THEIR AGENCY.

IN RESPONSE TO SIMILAR LEGISLATION FROM LAST SESSION, THE MISSOURI HIGHWAY PATROL STATED THAT THE PROPOSED LEGISLATION WOULD NOT FISCALLY IMPACT THEIR AGENCY.

OFFICIALS FROM THE DEPARTMENT OF PUBLIC SAFETY - STATE WATER PATROL (DWS) STATE THAT THEY GENERALLY HAVE LESS THAN \$100,000 IN SEIZURE FUNDS AND THAT THEY ANNUALLY REPORT TO THE FEDERAL DEPARTMENT OF THE TREASURY AND THE DEPARTMENT OF JUSTICE THE EXPENDITURES AND CASH/PROPERTY RECEIVED. THE DWS ASSUMES THE COST OF AN INDEPENDENT AUDIT OF THEIR AGENCY WOULD BE ROUGHLY \$1,500.

OVERSIGHT ASSUMES THE STATE WATER PATROL COULD ABSORB THAT COST WITHIN CURRENT BUDGETARY CONSTRAINTS.

THE DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION ASSUMES THE PROPOSED LEGISLATION COULD INCREASE THE AMOUNT OF MONEY (FORFEITURES) TO THE SCHOOL BUILDING REVOLVING FUND TO BE AVAILABLE TO DISTRICTS FOR FACILITY CONSTRUCTION AT A LOW INTEREST RATE. THE EXTENT OF THIS INCREASE IS UNKNOWN. UNDER CURRENT LAW, FY 2001 FINES AND FORFEITURES RECEIPTS INTO THE SCHOOL BUILDING REVOLVING FUND ARE ESTIMATED TO BE \$200,000. THERE IS NO EFFECT ON THE STATE FOUNDATION FORMULA.

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OVERSIGHT ASSUMES THIS PROPOSAL WOULD INCREASE THE NUMBER OF FORFEITURES MADE UNDER STATE FORFEITURE LAWS AND DECREASE THE NUMBER OF FORFEITURES MADE UNDER FEDERAL FORFEITURE LAWS. AS A RESULT, STATE AND LOCAL LAW ENFORCEMENT AGENCIES WOULD LOSE REVENUE. THE AMOUNT OF LOSS IS UNKNOWN; HOWEVER, BASED ON HISTORICAL AMOUNTS, THE LOSSES COULD EXCEED \$1 MILLION TO THE DRUG FORFEITURE FUND AND \$1 MILLION TO LOCAL GOVERNMENT FUNDS. THESE FUNDS WOULD BE DIRECTED TO THE STATE SCHOOL BUILDING REVOLVING FUND. IT SHOULD BE NOTED THAT FEDERAL LAWS ALLOW FORFEITURES IN CASES WHERE STATE LAW WOULD NOT ALLOW SEIZURE AND FORFEITURE. OVERSIGHT ASSUMES THE OVERALL NET IMPACT TO STATE FUNDS WOULD BE AN UNKNOWN POSITIVE AMOUNT.

ASSUMPTION (CONTINUED)

OVERSIGHT NOTES THAT ANY INCREASES IN FINES WHICH WOULD GO TO SCHOOL DISTRICTS WOULD BE OFFSET BY REDUCED PAYMENTS TO THOSE DISTRICTS THROUGH THE STATE FOUNDATION FORMULA. OVERSIGHT ASSUMES THERE WILL BE SUBSTANTIAL COMPLIANCE WITH THE LAW AND FINE REVENUE WILL BE MINIMAL.

IN RESPONSE TO A SIMILAR PROPOSAL FROM THIS YEAR, OFFICIALS FROM THE OFFICE OF STATE AUDITOR ASSUMED IT WILL REQUIRE .25 FTE STAFF AUDITOR I AND THE RELATED EXPENSE AND EQUIPMENT TO CARRY OUT THE REQUIREMENTS OF THE PROPOSAL. OVERSIGHT ASSUMES THESE COSTS COULD BE ABSORBED WITH EXISTING RESOURCES.

IN RESPONSE TO SIMILAR LEGISLATION FROM LAST YEAR, OFFICIALS FROM THE DEPARTMENT OF NATURAL RESOURCES ASSUMED STATE PARK RANGERS WERE NOT INVOLVED WITH FORFEITURES. DNR'S DIVISION OF ENVIRONMENTAL QUALITY DEALS ONLY WITH CIVIL FORFEITURES; HENCE, NO FISCAL IMPACT TO DNR.

FISCAL IMPACT - STATE GOVERNMENT FY 2002 FY 2003 FY 2004

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(10 MO.)

SCHOOL BUILDING REVOLVING FUND

INCREASE IN FORFEITURE REVENUE ~~UNKNOWN~~ ~~UNKNOWN~~ ~~UNKNOWN~~

FEDERAL FUNDS

DRUG FORFEITURE FUND

LOSS OF FORFEITURE REVENUE ~~UNKNOWN~~ ~~UNKNOWN~~ ~~UNKNOWN~~

FISCAL IMPACT - LOCAL GOVERNMENT FY 2002 FY 2003 FY 2004
(10 MO.)

LOSS OF FORFEITURE REVENUE ~~UNKNOWN~~ ~~UNKNOWN~~ ~~UNKNOWN~~

FISCAL IMPACT - SMALL BUSINESS

NO DIRECT FISCAL IMPACT TO SMALL BUSINESSES WOULD BE EXPECTED AS A RESULT OF THIS PROPOSAL.

DESCRIPTION

THIS PROPOSAL MAKES A NUMBER OF CHANGES TO THE CRIMINAL ACTIVITY FORFEITURE ACT (CAFA). THE PROPOSAL:

- (1) DEFINES SEIZING AGENCY AS THE AGENCY THAT IS THE PRIMARY EMPLOYER OF THE OFFICER OR AGENT SEIZING THE PROPERTY AND SEIZURE AS THE POINT AT WHICH ANY LAW ENFORCEMENT OFFICER OR AGENT DISCOVERS AND EXERCISES CONTROL OVER PROPERTY BELIEVED TO BE ASSOCIATED WITH CRIMINAL ACTIVITY (SECTION 513.605, RSMO);
- (2) PROHIBITS SEIZED PROPERTY FROM BEING DISPOSED OF PURSUANT TO UNCLAIMED PROPERTY PROVISIONS, UNLESS A CAFA

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PROCEEDING IS UNSUCCESSFUL (SECTION 513.607);

(3) REQUIRES THE PROSECUTING ATTORNEY OR ATTORNEY GENERAL TO SUBMIT AN ANNUAL REPORT DETAILING INFORMATION ABOUT SEIZURES TO THE STATE AUDITOR. CURRENTLY, THIS REPORT MUST ONLY BE SUBMITTED TO THE DEPARTMENT OF PUBLIC SAFETY. THE PROPOSAL FURTHER REQUIRES THE STATE AUDITOR TO MAKE AN ANNUAL REPORT COMPILING THIS DATA TO BE PRESENTED ANNUALLY TO THE GENERAL ASSEMBLY (SECTION 513.607);

(4) MAKES INTENTIONAL OR KNOWING FAILURE TO COMPLY WITH SEIZURE REPORTING REQUIREMENTS A CLASS A MISDEMEANOR, PUNISHABLE WITH A FINE OF UP TO \$1,000 (SECTION 513.607);

(5) SPECIFIES THAT PROPERTY SEIZED MAY NOT BE TRANSFERRED TO A FEDERAL AGENCY FOR FORFEITURE UNDER FEDERAL LAW WITHOUT COURT APPROVAL, REGARDLESS OF THE IDENTITY OF THE SEIZING AGENCY (SECTION 513.647); AND

(6) MAKES IT A CLASS A MISDEMEANOR, PUNISHABLE BY A FINE OF UP TO \$1,000, FOR LAW ENFORCEMENT AGENCIES USING THE FEDERAL FORFEITURE SYSTEM TO INTENTIONALLY OR KNOWINGLY FAIL TO COMPLY WITH STATUTORY AUDIT REQUIREMENTS (SECTION 513.653).

THIS LEGISLATION IS NOT FEDERALLY MANDATED, WOULD NOT DUPLICATE ANY OTHER PROGRAM, AND WOULD NOT REQUIRE ADDITIONAL CAPITAL IMPROVEMENTS OR RENTAL SPACE.

SOURCES OF INFORMATION

OFFICE OF PROSECUTION SERVICES
OFFICE OF STATE COURTS ADMINISTRATOR
OFFICE OF THE STATE PUBLIC DEFENDER
OFFICE OF THE ATTORNEY GENERAL
SOURCES OF INFORMATION (CONTINUED)

DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

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OFFICE OF STATE AUDITOR
DEPARTMENT OF NATURAL RESOURCES
DEPARTMENT OF PUBLIC SAFETY - DIVISION OF FIRE SAFETY
DEPARTMENT OF PUBLIC SAFETY - DIVISION OF LIQUOR CONTROL
DEPARTMENT OF PUBLIC SAFETY - DIVISION OF CAPITOL POLICE
DEPARTMENT OF PUBLIC SAFETY - MISSOURI HIGHWAY PATROL
DEPARTMENT OF PUBLIC SAFETY - WATER PATROL

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive "e" at the end.

JEANNE JARRETT, CPA
DIRECTOR
JANUARY 29, 2001